

APPEAL NO. 011229  
FILED JULY 13, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on May 10, 2001. The hearing officer determined that the appellant (claimant) sustained a compensable injury to his lower back on \_\_\_\_\_, and that he had disability resulting from the injury, beginning January 15, 2001, and ending January 23, 2001. The claimant has appealed the determination of the period of disability, arguing that disability should have been found to start on January 15, 2001, and to have continued through the date of the CCH. The respondent (carrier) has submitted a response, urging that the hearing officer's determination of the period of disability should be affirmed. The hearing officer's determination as to compensable injury has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

Disability means the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). The determination as to an employee's disability is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 92147, decided May 29, 1992. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust, and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

---

Michael B. McShane  
Appeals Judge

CONCUR:

---

Elaine M. Chaney  
Appeals Judge

---

Robert W. Potts  
Appeals Judge